

Notice of Allowability

Application No.

10/708,124

Examiner

Jerry Martin Blevins

Applicant(s)

NODA ET AL.

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed May 22, 2006.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. .
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date .
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date .
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other Brian Healy

BRIAN HEALY
PRIMARY EXAMINER

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DETAILED ACTION

Priority

Examiner accepts applicants' submission that the present application specification is an English-language translation of the certified copy of the Japanese patent application on which applicants' foreign priority claim is based and which is of record in the present application; and that applicants' representative is fluent in written Japanese and is an experienced translator of Japanese patent specifications into English, and in fact translated the certified copy himself to produce the specification for the instant application. Therefore, applicants are allowed to rely upon the foreign priority documents to overcome intervening references.

Terminal Disclaimer

The terminal disclaimer filed on May 22, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on application number 10/708,618 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

Applicant's arguments, see pages 6 and 7, filed May 22, 2006, with respect to the specification have been fully considered and are persuasive. The objection to the specification has been withdrawn.

Applicant's arguments, see page 7, filed May 22, 2006, with respect to claim 10 have been fully considered and are persuasive. The objection to claim 10 has been withdrawn.

Applicant's arguments, see page 7, filed May 22, 2006, with respect to claims 1-11 have been fully considered and are persuasive. The double patenting rejection of claim 10 has been withdrawn.

Applicant's arguments, see pages 7-9, filed May 22, 2006, with respect to claims 1-11 have been fully considered and are persuasive. The rejection of claims 1-11 under 35 U.S.C. 103(a) has been withdrawn.

Allowable Subject Matter

Claims 1-11 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 1, the prior art, as best exemplified by Srinivasan and Painter, "Momentum space design of high-Q photonic crystal optical cavities", Optics Express, July 29, 2002, pages 670-684, teaches a two-dimensional photonic crystal configured by an arrangement, in a two dimensional lattice of points defined in a slab, of low refractive index substances having a small refractive index relative to the slab and being of identical dimension and shape, a cavity made from a point defect within the two-dimensional photonic crystal (page 670, lines 1-16 and page 671, lines 1-14), wherein the geometry of a point defect and the surrounding holes in a two-dimensional photonic crystal can be altered (page 673, section 3, line 3 and page 670, Abstract, line 6).

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However, Srinivasan, taken alone or in combination with the prior art, neither discloses nor renders obvious that the point defect contains among the lattice points a plurality of three or more neighboring one another, and in the plurality of three or more lattice points the low refractive index substances are missing from the arrangement, and that the altered geometry consists of displacing at least one of the low refractive index substances being arranged to correspond to at least one among those of the lattice points being nearest the point defect by a predetermined distance from the at least one of the lattice points nearest the point defect.

Claims 2-11 are allowed based on their dependence from allowed base claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

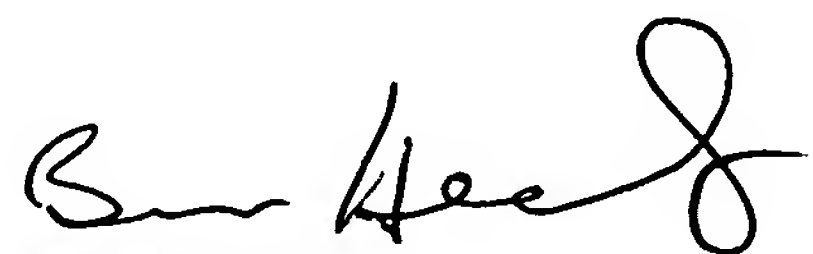
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Martin Blevins whose telephone number is 571-272-8581. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMB


BRIAN HEALY
PRIMARY EXAMINER
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